



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OCT 7 1996

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested

In Reply Refer To:

(b) (6) Personal Privacy

EPA File No.
1R-96-R3

Mitchellville, MD 20721

Dear (b) (6) Personal Privacy

The purpose of this letter is to inform you that the Office of Civil Rights (OCR) cannot accept for investigation the above-referenced complaint dated June 20, 1996, concerning road construction projects associated with a new sports stadium in Prince Georges County, Maryland.

As stated in our July 1, 1996, letter, under Title VI, OCR can only investigate those entities to which the Environmental Protection Agency (EPA) provides financial assistance, and, to be accepted for investigation, a complaint must meet the criteria set out in EPA's Title VI regulations in the Code of Federal Regulations (CFR) at 40 CFR Part 7 (Nondiscrimination in Programs Receiving Federal Assistance From the Environmental Protection Agency). In general, a complaint must identify an alleged discriminatory act, explain how the act is discriminatory, and state the facts upon which the allegation is based. A complaint should identify with specificity: (1) the alleged discriminatory act, (2) when the act occurred, (3) who committed the act, (4) how the act was discriminatory, (5) who was adversely affected, and (6) how they were adversely affected.

The complaint does not meet the requirements for acceptance for investigation under the EPA's Title VI regulations, because it does not state a set of facts that allows OCR to determine that a recipient of financial assistance from EPA may have committed a discriminatory act. In particular, the complaint does not state with sufficient specificity what the alleged discriminatory actions were, who took the actions, when the

actions were taken, what the effects were, and who was affected. It does not clearly indicate the possibility of any discrimination that can be investigated by OCR under Title VI of the Civil Rights Act of 1964, as amended.

Our letter of August 23, 1996, requested specific additional information to clarify and substantiate the allegations in the complaint. Your response dated September 25, 1996, does not provide the information requested. It simply invites us to review the record of the stadium approval to find support for the generalized allegations and conclusions. For example, your reply to our request that you identify the acts taken by MDE with respect to the road projects you oppose is simply, "See documents: #1 through #106." It is not sufficient to refer to entire documents for support. A complaint must state what in each document is relevant and why it is relevant. OCR is not responsible for searching through the record for specifics that support the allegations in a complaint under consideration for acceptance. References to "the State" having done something are also inadequate. EPA does not have jurisdiction over "the State" in general; only over state programs and activities to which EPA gives financial assistance.

Finally, in your June 20, 1996, letter you broadly alleged "The State of Maryland has failed to adhere to its State Implementation Plan (MD-SIP) which was created to address 40 USC § 50, § 51, § 52, § 58 and § 61," and that the road projects were "counterproductive to the implementation and enforcement of the MD-SIP, which clearly violates the spirit and intent of 40 USC § 50, § 51, § 52, § 58 and § 61." In our August 23, 1996, letter, we asked you to substantiate these nonspecific allegations by telling us how the State failed and how the road projects were counterproductive to, and violative of, Clean Air Act regulations. In your September 25, 1996, reply, you answered with additional generalized allegations. Your initial statement was that the State was "remiss in its fiducial responsibilities by accepting as sufficient, and approving a zoning application that will cause adverse impacts to the environment, and human health although there are numerous environmental issues that were not resolved and/or were not addressed." What are the fiducial responsibilities to which you refer? Which state entity or program accepted and approved the zoning application? When? How? How will the zoning application, or approval of the zoning application, cause adverse impacts to the environment and to human health? What will the adverse impacts be? Who will be

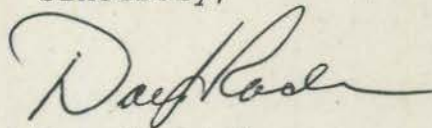
affected? What numerous environmental issues were not resolved and/or addressed? The single 148-page document you reference is not a zoning application.

OCR has a flexible policy of advising complainants of insufficiencies, and allowing complainants to mend deficiencies in a complaint. While a complainant is not required to prove a complaint's allegations to have the complaint accepted for investigation, the complaint must include sufficient information to justify an investigation. The burden is on the complainant to submit sufficient information to show that an investigation is warranted by clearly establishing the possibility that a discriminatory act prohibited by Title VI or EPA's Title VI regulations has occurred within 180 days of the filing of the complaint. OCR is not responsible for constructing a complaint from information provided by a complainant or searching for data to make out a complaint.

Executive Order 12989 ("Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations") applies only to Federal agencies. Moreover, it is not a law or regulation. The Executive Order creates no new rights of action, and is intended only to improve the internal management of the Executive Branch of the Federal government by focusing Federal attention on the environmental and human health conditions in minority and in low-income communities.

For the reasons stated above, OCR cannot accept your complaint for investigation. If you have any questions, please contact Mike Mattheisen in this office by telephone at 202-260-4587, or by mail.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dan Rondeau", written in a cursive style.

Dan J. Rondeau
Director

cc: Mary O'Lone, Attorney
Office of General Counsel
(2379)

Stanley Laskowski, Regional Administrator
EPA Region III
841 Chestnut Building
Philadelphia, PA 19107

Jane Nishida, Secretary
Maryland Department of the Environment